

**MEETING**

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Bogue, followed by the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS Zermeno, McKillop, Sacks, Caveglia, Halliday, Thnay  
CHAIRPERSON Bogue  
Absent: COMMISSIONER None

Staff Members Present: Anderly, Bartlett, Conneely, Gaber, Koonze, Looney, Patenaude, Weisbrod

General Public Present: Approximately 20

**PUBLIC COMMENT**

Ron Barklow discussed the television reception from the City Council meeting of last Tuesday.

**AGENDA**

1. Appeal of the Planning Director's Denial of Tentative Parcel Map 7690 – Ed Fuentes (Applicant/Owner) – Request to Subdivide a 9,000± Square-Foot Parcel into Two Parcels and Approve a Variance to the Rear Yard Setback – The Property is Located at 22838 Francisco Street in an CC-C (Central City-Commercial) Subdistrict (Continued From October 17, 2002)
2. Site A. Site Plan Review (PL-2002-0668) – George Avanesian (Applicant)/Sonic Automotive (Owner) – To Raze Four Structures and Construct a New Automobile Sales Facility for Honda – The Project is Located at 24919 Mission Boulevard at the Southwest Corner of Orchard Avenue and Mission Boulevard in a General Commercial-Mission Corridor Special Design (CG-SD2) Zoning District; Site B. Reconsideration of Administrative Use Permit (PL-2002-0188) – David Fosgate (Applicant)/Michael Ahern (Owner) – Request for Use of Property as a Parking Lot for Automobile Storage – The Project is Located at the Intersection of Fletcher Lane and Walpert Street in an Agricultural (A) Zoning District
3. I. General Plan Amendment (PL-2002-0292) – Request to Amend the General Plan Designation from Retail & Office Commercial (ROC) and Limited Medium-Density Residential (LMDR) to High-Density Residential (HDR); II. Zone Change (PL-2001-0340) – Request to Amend the Zoning District from General Commercial (CG), Neighborhood Commercial (CN) and Medium-Density Residential (RMB3.5) to Planned Development (PD) to accommodate a 200-unit retirement center – Livermore Acres, Inc. (Applicant/Owner) – The Project is Located at 29228 Mission Boulevard opposite the

intersection with Valle Vista Avenue  
PUBLIC HEARINGS

1. Appeal of the Planning Director's Denial of Tentative Parcel Map 7690 - Ed Fuentes (Applicant/Owner) - Request to Subdivide a 9,000± Square-Foot Parcel into Two Parcels and Approve a Variance to the Rear Yard Setback - The Property is Located at 22838 Francisco Street in an CC-C (Central City-Commercial) Subdistrict (Continued From October 17, 2002)

Assistant Planner Koonze explained the previous Planning Commission action.

Commissioner Caveglia asked about the vote from the previous meeting. He was told they did not vote to approve the project but merely asked for findings and conditions to approve the request and variance.

The public hearing was opened at 7:36 p.m.

Ed Fuentes, applicant, said he was available to answer any questions.

Commissioner McKillop asked about the improvements on the street and the timing on it.

Commissioner Halliday asked the applicant whether there were any changes to his plans.

Mr. Fuentes said no, he would merely secure the roof.

Commissioner Sacks asked about his perception of the information. He said he was fine with all of the conditions.

The public hearing was closed at 7:36 p.m.

Commissioner Caveglia moved, seconded by Commissioner Zermeño, to approve the application with findings and conditions. The motion passed unanimously.

2. Site A. Site Plan Review (PL-2002-0668) - George Avanesian (Applicant)/Sonic Automotive (Owner) - To Raze Four Structures and Construct a New Automobile Sales Facility for Honda - The Project is Located at 24919 Mission Boulevard at the Southwest Corner of Orchard Avenue and Mission Boulevard in a General Commercial-Mission Corridor Special Design (CG-SD2) Zoning District; Site B. Reconsideration of Administrative Use Permit (PL-2002-0188) - David Fosgate (Applicant)/Michael Ahern (Owner) - Request for Use of Property as a Parking Lot for Automobile Storage - The Project is Located at the Intersection of Fletcher Lane and Walpert Street in an Agricultural (A) Zoning District

Consulting Project Planner Weisbrod presented the report. He indicated that Site A will be a two-story building, and have offices and display for the sale of new cars. The building will be mission-style with a tower at the corner as a focal point. The dealer's present location across the street will be used for auto detailing and service.



He noted that Site B on Fletcher Lane is proposed as a parking lot for storage of autos. He noted that he received one phone call from a resident against the plan on Fletcher.

Commissioner Caveglia asked about the size of the monument sign on the corner of Mission.

Consulting Project Planner Weisbrod said the sign ordinance does permit a 12-foot high monument sign.

Commissioner Sacks asked for further information about the sign and the landscaping.

Commissioner Zermeño asked about the relocation of the businesses presently on the site.

Consulting Project Planner Weisbrod said staff would be working on relocating them in Hayward.

Commissioner Halliday asked about the land lease.

Redevelopment Director Bartlett said staff has been working with Sonic on this. Sonic owns one of the parcels on the corner. They have long-term ground leases for 20-30 years on the others. Staff is suggesting they build the building as close to the corner as possible.

Commissioner Halliday asked about the noise generated by trucks unloading cars.

Commissioner Thnay asked about the trees required in the landscaping at the Fletcher Lane site and how tall they would be at maturity.

Consulting Project Planner Weisbrod said they could be kept at a height that would not block the view of adjacent residents.

Commissioner Thnay also asked about the wear and tear and damage to Fletcher Lane. He thought it extraordinary that there were no conditions making the applicant responsible.

Consulting Project Planner Weisbrod said a condition could be attached regarding truck damage to Fletcher Lane.

The public hearing opened at 7:57 p.m.

George Avanesian, Architect, explained that the leases are no problem for the applicant. He said he thought the mission-style light fixtures might be difficult to find.

Consulting Project Planner Weisbrod said staff would work with them to find light fixtures that meet the intent of the condition.

Commissioner Halliday asked whether the two proposals were tied together.

Mr. Avanesian stated that they absolutely were. He said the dealership cannot do one without the other.

Robert Sanders, Sonic Motors, responded further to commissioner's questions. He said the auto carriers would not unload cars more than once or twice a week at the Fletcher Lane site. Nor would they make any exceptional noise. He noted that the 12-foot monument sign is necessary for visibility at the dealership. He added that they have no plans for security guards at the Fletcher Lane site at this time.

Ron Barklow asked whether development of Site A would interfere with the Walpert Ridge street improvement on intersection. He suggested that, at present there is unnecessary lighting at the dealerships along Mission, and asked whether a traffic study had been done at Fletcher Lane to determine the probability of accidents involving the carrier trucks and cars coming down the hill. He then suggested that the amount of noise of trucks going up the hill and pulling into the facility might disturb the students at the nearby school. He said the steel ramps make noise unloading the cars. He then asked how much grading would be done at this location and whether the City would be liable if the hillside slides. He said he was concerned about this location for car storage. He suggested it might be better suited to the PG&E facility, which would also be closer to the present dealership.

Naji Dobashi, one of the owners of the liquor store on Mission at this site, said he came to Hayward two years ago and came to make a living. He said they are not being treated right. Sonic is not offering them anything close to what their business is worth. He noted that if his business were up for sale, there would be one price. What they are being offered is not the same. Even if they were to move they would have to re-build their clientele. The rent would be higher at a new place. He added that they signed a 10-year lease with the owner, a 5-5. After five years they could have re-leased at the same cost for another five years with options for more at the end of ten years. He said they have worked hard on the property and spent a lot of money fixing it up.

Jose Cuevas, owner of a restaurant at the location, said they have been there over a year. They have invested over \$100,000 in the building and opened Dec. 2001. He said they would have appreciated knowing what the future of the property was going to be so they would not have invested the amount. Their business has already grown from two to six employees. He said they are looking for relocation help. Tri-City Sporting Goods owns their lease. He maintained that Sonic is trying to take advantage of non-English speaking tenants.

Commissioner Zermeno asked whether the City of Hayward has helped in any way and how.

Mr. Cuevas said they just recently found out about this proposal. He said they did not know what was going on or would not have made the investment and commitment they have in their restaurant.

Commissioner Zermeno asked further whether they had been approached regarding a buy out on their lease.



Mr. Cuevas said they have a lease of 5 years. Since they made their deal with Tri-Cities Sporting Goods, he wondered who owns the lease at this point. He maintained that they have made a good faith effort to recapture their investment and make some money.

Commissioner Caveglia then asked Redevelopment Director Bartlett to explain the process and the City's role in this.

Redevelopment Director Bartlett said the Redevelopment Agency has been in exclusive negotiations with Sonic since last July. She said the Agency sent information regarding this action to the tenants. The Agency has been encouraging Sonic to negotiate a termination of the leases with the tenants. If this were unsuccessful after one final try, the tenants would be eligible for relocation assistance through the City.

Commissioner McKillop asked for further explanation regarding the relationship between the leases the tenants have with Tri-City Sporting goods and Sonic.

Redevelopment Director Bartlett explained that it is really a sublease from the restaurant property owner.

Commissioner McKillop commented that it sounds onerous for the owners down there, especially when they are not sure of the process.

Redevelopment Director Bartlett said the City of Hayward is hoping the owners will continue to maintain their businesses until there is a final disposition of the property.

Commissioner Zermeno asked whether the process had been explained to the owners.

Redevelopment Director Bartlett said the City has not discussed anything with them since there is no official agreement between Sonic and the Agency at this point. She maintained that once there is an owner-participation agreement, the City would be in a position to have discussions with tenants and information could be made available in Spanish.

Commissioner Halliday confirmed that relocation assistance would be available only if an owner-participation agreement is entered into.

Redevelopment Director Bartlett said the Agency has encouraged Sonic to get a voluntary agreement with the tenants. When asked about legal assistance for the tenants, she said she was not sure whether there is any available. She said relocation assistance is available through a neutral party. The Agency will serve to provide them this assistance under State law.

Commissioner Halliday suggested it might be appropriate to advise the tenants of their rights since it sounds like they have legitimate concerns.

Redevelopment Director Bartlett noted that the Agency is working toward an agreement with Sonic.

Commissioner Sacks said she was trying to comprehend the recommendation from staff. She wanted clarification that the Commission was to act on the recommendation without getting into the leases and other information.

Planning Manager Anderly clarified that the Commission was making a land-use decision. She stated that their action would be as a use of the land for these purposes.

Mike Cox, an O'Neil Avenue homeowner, said he had several problems to discuss regarding Site A. He asked that no cars be unloaded on O'Neil Avenue. He maintained that it does deteriorate the street and make a lot of noise. He asked that the trees on the west side be of a type and species to fill in the area so that neighbors do not see the project. He noted that there were two-story condos and apartments looking at the location. He also asked that any audible intercom system be prohibited since it is annoying. He said he hopes the dealership will be a good neighbor.

Chairperson Bogue explained to him that there are a number of conditions of approval speaking directly to his concerns.

Planning Manager Anderly at this point discussed a phone call she had received from resident Bea Thornton who asked for non-approval of the Fletcher Lane part of the plan. Mrs. Thornton thought that this use would be inappropriate on that road.

Carol Porter, owner of the Fletcher Heights apartments, asked who would maintain the street and landscaping in the area, as well as take responsibility for drainage. She then asked who are the actual owners of the parcels.

Consulting Project Planner Weisbrod said the applicant would be responsible for maintaining the landscaping and property improvements.

W. Bruce Bercovich, an attorney for Sonic, explained that they were in the process of purchasing the Fletcher property as well as owning the corner property on Mission.

The public hearing was closed at 8:35 p.m.

Commissioner Sacks moved the staff recommendation. Commissioner Thnay seconded the motion.

Commissioner Thnay said he wanted to speak to a few points. He noted that at the previous meeting he had questions about using this site for a park and was it realistic. He commented that since HARD is not interested in developing a park on the site, it is difficult to imagine what else they might be able to do with it. Although this is not ideal, this is a prudent and fair option. He said he did not want to see the Honda dealership leave the City. He appreciated the condition requiring loading and unloading cars only from 9 a.m. to 4 p.m.



Commissioner McKillop said initially she had voted against the Fletcher Lane storage since she maintained that it should be kept as open space. However, she said, it does not seem to be a reality for it to be a park. At this point it is a dumping ground. She added that she appreciated the concerns of the tenants, but since this is a land-use issue, she felt that this is an appropriate use. She said she would support the motion.

Commissioner Zermeno agreed that he would rather see the Fletcher Lane area as a park but without HARD agreeing it cannot be done. He said he, too would support the motion. He added that he felt for the tenants at the Mission Boulevard property, and hoped they would meet with the Redevelopment Agency and also get further information about the various City programs that might help them like small business loans, etc.

Redevelopment Agency Director Bartlett said the Economic Development Department has small business help.

Commissioner Sacks added a further comment regarding the Fletcher Lane property. She said that it should be okay to have the car carriers go up to that space. She said she drove up there herself and that land like that has potential. She noted that the applicant would protect their property up there so it would help make it a safer area.

Commissioner Halliday asked about the General Plan designation for the Fletcher Lane property, adding that you would usually see in the Neighborhood Task Force report what they would want in the area.

Planning Manager Anderly said the Mission-Foothill Task Force explored the area for further auto dealerships placements. She said there was no discussion of this particular property in their report.

Principal Planner Patenaude reported that in the General Plan, this area was designated Limited Open Space. He added that this use might not be inconsistent with that designation.

Commissioner Halliday then asked about the noise impacting the school.

Consulting Project Planner Weisbrod said the buildings on the school site are lower than this site, so that should mitigate noise impacts.

Planning Manager Anderly discussed the view terrace, which would also not be impeded.

Commissioner Halliday expressed dismay over this decision. She agreed that they do not want Honda to leave the City of Hayward, however there are questions regarding how this would impact the area. She said she determined that only a couple of truck trips a week would not have a big impact, so she would support the motion.

The motion passed unanimously.

3. I. General Plan Amendment (PL-2002-0292) – Request to Amend the General Plan Designation from Retail & Office Commercial (ROC) and Limited Medium-Density Residential (LMDR) to High-Density Residential (HDR); II. Zone Change (PL-2001-0340) – Request to Amend the Zoning District from General Commercial (CG), Neighborhood Commercial (CN) and Medium-Density Residential (RMB3.5) to Planned Development (PD) to accommodate a 200-unit retirement center – Livermore Acres, Inc. (Applicant/Owner) – The Project is Located at 29228 Mission Boulevard opposite the intersection with Valle Vista Avenue

Principal Planner Patenaude made the presentation. He noted that the present site is the Valle Vista Skating Rink. The applicant would combine three parcels of land to accommodate the project, which will include a parking garage with 300 spaces. It will also have a shuttle service for transporting residents to the BART station, as well as shopping centers in the area. There will be a bridge from the main structure to the parking garage. He noted that the precise plan would include a formal landscape plan and a chance for more trees to be included to screen it from the neighborhood. He described the building as neo-Mediterranean style architecture. He added that staff is recommending a red-tile roof rather than composition roof since there is a large amount of roof on the project. He showed more details of the elevations of the property and noted that staff is recommending reducing the parking garage size to allow for more open space outside the residence since it is within the South Hayward BART station area. He noted also that the Fairway Park Homeowners Association does support the project but recommends that park fees be used to fund a senior center at a near-by school site. Staff does not support this dedication of fees.

Chairperson Bogue was told that the senior center proposal would be within this same area.

Commissioner Zermeño asked whether there were any plans to relocate the skating rink.

Principal Planner Patenaude said there were none. He added that this is in the path of the 238-freeway route.

Commissioner Zermeño then suggested that a bus island be developed into the project similar to that at the County building on Amador

Principal Planner Patenaude said staff would be looking at that.

Commissioner Zermeño suggested a mural might be appropriate on the wall of the parking structure, and possibly space for a community garden.

Principal Planner Patenaude said once the footprint of the garage reduced, there might be space for various things. He explained that there could be terraced open space on the site. Removing a half deck of the garage and lowering the profile of the deck, could also allow for a rooftop garden.





Commissioner Zermefio added that he thought a Senior Center was a great idea.

Principal Planner Patenaude explained that a number of agencies were involved with that property at this point.

Commissioner Halliday asked whether the Planning Commission had any right to determine how the park in-lieu fees are used.

Principal Planner Patenaude reminded her that the Planning Commission and staff review the request for funds by HARD. He noted that staff certainly could recommend that this be included in HARD's list of recommended funding. Were the Commission to want to see the final plans, they could request to review the design at a later date.

Commissioner Sacks asked how this connected to the Mission-Garin Study area.

Principal Planner Patenaude responded that this property is not involved in that study area. He commented that any future projects would be at a higher elevation and able to look over this building.

Commissioner McKillop asked about a grove of trees on the back of the lot, which look like Oak trees.

Principal Planner Patenaude explained that the precise plan would require a survey of the trees. He indicated that the reduced size of parking garage might leave the trees alone.

Commissioner McKillop suggested they reduce the size of the parking garage and save the grove. She added that she thought it was important to have an actual shuttle. She said she did appreciate that and the reduction of parking spaces

Commissioner Thnay asked about the independent living status with no medical staff. He then asked whether there was an age limit and when people reach a certain age are they too old, and do they have to leave.

Principal Planner Patenaude explained that it is considered an independent living center, which means there will be no skilled nursing care. He added that when individuals need that type of care, they no longer remain at the facility. The minimum age is set at 62 at present. He noted that the ages for both Casa Sandoval and St. Regis is 60 or 55 with individual needs and how they fit into the community. He explained that with a younger population, they could have vehicles and not use public transportation.

Commissioner Caveglia asked whether the age limitation has ever been resolved legally.

Principal Planner Patenaude explained that with a senior facility there is more latitude.

The public hearing opened at 9:18 p.m.

Anthony Varni, attorney for the project, said they had been working with staff for a year, and were comfortable with the staff recommendation. He said they would like to work with School District regarding the school fees, and age limitation of the unit, but agreed that this was their issue. He said they would also agree that the project would come back to the Planning Commission when it is more fully developed. He asked members to support the staff recommendation.

Ernie Yoshino, the architect from Turlock, discussed the roofing tile. He explained that with the three-story elevation, the staff recommendation for the tile roof might not work. He suggested working with staff on a different style of roof. He explained that the elevation of the ridgeline would include stepped up roofs as they go back. He said another rendering would reflect these ideas.

Commissioner Halliday asked whether he was okay with recommendation of reducing the size of the parking garage.

Mr. Yoshino said, yes, they had originally wanted a reduction in the size. They were very much in favor of this recommendation.

Chairperson Bogue asked how he would reduce the garage.

Mr. Yoshino said he would reduce the footprint and do some study for additional landscaping.

The public hearing closed at 9:24 p.m.

Commissioner Caveglia moved, seconded by Commissioner Sacks, that the Commission approve the staff recommendation, he included in his motion that the precise plan come back to the Commission for review. Commissioner Caveglia added that it looks attractive and suggested the Commission move it ahead.

Commissioner Halliday said she needed to look at it more carefully, and noted that she has a personal interest in these retirement homes. She said this is reminiscent of Baywood Court in Castro Valley, and has almost a hotel atmosphere. It is high-density housing but without the traffic. She commented that it would be valid for the in-lieu park fees go toward a Senior Center, and hoped staff would keep this in mind at the appropriate time, particularly since that seems to be what the neighborhood wants and needs. She added especially with the loss of a key recreation area for youth.

Commissioner Thnay noted that this is a positive thing. He encouraged staff and the architect to explore the idea of a roof garden for an enhancement. He added that he, too, would lament the loss of the skating rink, and wondered whether the City of Hayward has any plans for new recreational facilities for young people. Since this means one less thing for kids to do.

Commissioner McKillop asked about the roof and added a friendly amendment to allow staff to



review alternate materials other than red tile.

Commissioner Sacks added a serious comment regarding the school fees. She said she sensed some negative feelings about schools among older communities. She noted that students owe their education to the seniors and adults who paid for their part. She said she would support the project.

Commissioner Zermeno said he liked the project but not the loss of the youth center.

Commissioner Halliday wanted to clarify that the age-specific requirement would remain in the General Plan amendment and that it could not just be some other high-density residential.

Principal Planner Patenaude stated that this property would remain high density residential, but any other proposal would still have to go through the complete rezone process.

Commissioner Halliday asked whether this planned development district is for this project only.

Principal Planner Petenaude clarified again that the General Plan would be set for high residential but each individual project would have to stand on its own.

Planning Manager Anderly added that what the Commission and City Council were doing was to be taking this land out of commercial and putting it into high density residential.

Chairperson Bogue stated that it seems logical to reduce the parking. He suggested another condition to require that, when the applicant removes the Valle Vista Skating Rink sign, it be offered to the Hayward Historical Society. He thought varying the style of the fence might seem odd, and wondered how that would be handled.

Principal Planner Petenaude noted that the condition does not require style difference but relief along the length of the wall. He assured the members that it could be done.

The motion passed unanimously.

#### **ADDITIONAL MATTERS**

##### **4. Oral Report on Planning and Zoning Matters**

Planning Manager Anderly mentioned that there would be a Mission-Garin joint work session meeting on Feb 18. The two regularly scheduled planning commission meeting would still be held on the 2<sup>nd</sup> and 4<sup>th</sup> Thursdays.

##### **5. Commissioners' Announcements, Referrals**

Commissioner Zermefio asked about the trees on Tennyson and 880 that were killed, and would they be replaced. He then proposed that the Commission members meet once a month at a restaurant for dinner before the meeting. Members agreed with this suggestion.

Commissioner Thnay commented on the inordinate amount of time it is taking for the road widening at Mission/Industrial and whether this might not be exposing the City to unwanted litigation.

#### **APPROVAL OF MINUTES**

- December 19, 2002, Chairperson Bogue asked for the minutes to be held until the next meeting.

#### **ADJOURNMENT**

The meeting was adjourned by Chairperson Bogue at 9:43 p.m.

#### **APPROVED:**

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Barbara Sacks, Secretary  
Planning Commission

#### **ATTEST:**

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Edith Looney  
Commission Secretary